

**UNITED STATES COURT OF INTERNATIONAL TRADE**

	x	
[Plaintiff's Name],	:	
Plaintiff,	:	Court No.
v.	:	<b>SCHEDULING ORDER</b>
[Defendant's Name],	:	(Sample)
Defendant.	:	
	x	

Pursuant to Rules 1 and 16 of the United States Court of International Trade, IT IS ORDERED that the parties adhere to the following deadlines:

1. The Plaintiff has identified \_\_\_\_\_ as the basis for this Court's jurisdiction.
2. Motions to join other parties or to amend the pleadings should be submitted by \_\_\_\_\_.
3. Any remaining motions regarding the pleadings, discovery or other preliminary matters shall be submitted by \_\_\_\_\_.
4. Discovery shall be completed by \_\_\_\_\_.
5. The parties estimate that the dollar amount in controversy is \_\_\_\_\_. (Or, if estimation proves too difficult or impractical, the parties estimate that the amount involved falls within a range of \_\_\_\_\_.)
6. Dispositive motions, if any, shall be filed no later than \_\_\_\_\_.
7. If dispositive motions are not filed, a proposed Order Governing Preparation for Trial shall be submitted on the date designated for filing dispositive motions.

8. If necessary, pretrial conference shall be held on \_\_\_\_\_. (At least two weeks prior to trial.)
- a. in the event no dispositive motion is pending, all exhibits shall be identified and submitted by \_\_\_\_\_. (At least four weeks prior to pretrial conference.)
- b. lists of witnesses, including experts who are to be designated by name and subject matter, must be exchanged on or before \_\_\_\_\_. (At least than four weeks prior to pretrial conference.)

The Clerk of the Court is directed to forward copies of this scheduling order to counsel for all parties.

\_\_\_\_\_  
Judith M. Barzilay, Judge

Dated: \_\_\_\_\_  
New York, New York

UNITED STATES COURT OF INTERNATIONAL TRADE

Before: Judge Judith M. Barzilay

-----	x		
[Plaintiff's Name],	:		
Plaintiff,	:		Court No.
v.	:		<b>Certification of Settlement Efforts</b>
[Defendant's Name],	:		
Defendant.	:		
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The undersigned lead counsel for the parties hereby certify that:

1. They met (in person) (by telephone) on \_\_\_\_\_, to discuss in good faith the settlement of this case.
2. The following persons participated in the settlement conference:  
\_\_\_\_\_  
\_\_\_\_\_
3. Counsel conferred with their clients regarding settlement.
4. At the conference counsel exchanged offers, identified obstacles to settlement, and considered options for overcoming them.
5. Counsel (\_\_\_\_) do or (\_\_\_\_) do not desire a conference with the Court regarding settlement.

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Counsel for Plaintiff

\_\_\_\_\_  
Counsel for Defendant

# UNITED STATES COURT OF INTERNATIONAL TRADE

**Before: Judge Judith M. Barzilay**

----- x

[Plaintiff's Name], :

Plaintiff, : Court No.

v. :

[Defendant's Name], :

Defendant. :

----- x

[Name of attorneys] for the Plaintiff.

[Name of attorneys] for the Defendant.

## **PRETRIAL ORDER**

At the pretrial conference held on [date] before the Hon. Judith M. Barzilay, and attended by counsel, the following matters were discussed and agreed to, and are hereby ORDERED:

1. **General**. The parties recognize that this pretrial order controls the subsequent course of the action unless the order is modified by consent of the parties and the Court, or by order of the Court to prevent manifest injustice. The attached schedules, each on a separate sheet, are part of this order.
2. **Parties and Counsel**. Schedule A sets forth the names of all parties; the names, addresses and telephone numbers of their respective attorneys, and the names of trial counsel for each party.
3. **Jurisdiction**. Schedule B-1 sets forth the statutes, legal doctrines, and facts upon which Plaintiff claims jurisdiction. Schedule B-2 indicates which of these, if any, are contested.
4. **Uncontested Facts**. All material facts that are without substantial controversy are set forth in Schedule C. Material facts that are actually and in good faith controverted, and which a party intends to establish at trial, are separately listed in Schedules C-1, C-2, etc. Facts not included in these schedules may not be established at trial.

5. **Claims and Defenses**. The parties' claims and defenses are separately listed in Schedule D-1, D-2, etc.

6. **Financial and Other Relief**. Claims with respect to financial and other relief sought by each party are detailed in Schedules E-1, E-2, etc.

7. **Waiver of Claims**. The parties waive all claims with respect to liability, damages, and other relief and all affirmative defenses which are not set forth in Schedules D and E.

8. **Triable Issues**. Schedule F sets forth and separately numbers the issues of the case, without simply restating the disputed facts. All legal issues are to be addressed prior to the commencement of the trial. If the parties cannot agree as to the issues, then their separate statement of the issues shall be set forth as Schedules F-1, F-2, etc.

9. **Witnesses**. Schedules G-1, G-2, etc. list for the respective parties the witnesses they will or will probably call to testify at the trial, setting forth for each witness (a) name, (b) address, (c) a summary of expected testimony, and, for expert witnesses, (d) a curriculum vitae and (e) the area of expertise.

10. **Deposition Testimony**. Any party proposing to use deposition testimony as evidence shall, at least two weeks prior to the trial date, notify all the adversaries of the testimony proposed to be read. Objections to any proposed deposition testimony shall be made in writing no later than one week prior to trial. The parties shall file with the Court copies of the depositions, indicating the portions to be read and the relative objections. The Court will rule on all such objections prior to commencement of the trial.

11. **Exhibits**. Schedules H-1, H-2, etc. list for the respective parties the exhibits to be offered in evidence by that party. Each list shall identify and describe each exhibit. Plaintiff's exhibits shall be identified by numbers, Defendant's by letters. The parties recognize that they will not be allowed to use at trial any exhibits or witnesses not identified in this pretrial order except upon prompt notice to all parties and to the Court, and upon a showing of good cause.

12. **Objections to Exhibits**. Schedules I-1, I-2, etc. list for the respective parties each adversary's exhibits whose authenticity and admissibility are contested. The parties shall state the specific ground for objection to each contested exhibit listed therein.

13. **Discovery**. All discovery is complete. Undisclosed discovery which surfaces during trial will be deemed untimely and subject to the sanction of exclusion.

14. **Pretrial Legal Memoranda**. (This document is the same as the Pretrial Summary Memorandum and need be re-filed only if updated since the pre-trial conference.) Not fewer than seven (7) days before the trial, each counsel shall provide the Court with memoranda of law containing:

- (1) A statement of the facts which the party intends to establish at trial.
- (2) The supporting evidence which the party intends to introduce at trial.
- (3) A discussion addressing all the legal issues in dispute.

**Filing will be deemed completed when received, without the exception provided under USCIT R. 5(e).**

16. **Trial Time**. The trial will take approximately \_\_\_\_ days.

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Judith M. Barzilay, Judge

Dated: \_\_\_\_\_  
New York, New York

Approved and Consented to:

\_\_\_\_\_  
Attorney for

\_\_\_\_\_  
Attorney for

UNITED STATES COURT OF INTERNATIONAL TRADE

----- x

[Plaintiff's Name], :

Plaintiff, : Court No.

v. :

[Defendant's Name], :

Defendant. :

----- x

ORDER GOVERNING PREPARATION FOR TRIAL

The parties are hereby directed to eliminate any undisputed and peripheral matters, and to proceed to a final definition of the issues to be tried.

**If this matter is not to be concluded by dispositive motion filed on or before *[date dispositive motions are due]*, this Order will govern this matter.**

To carry out the foregoing, IT IS ORDERED:

I. Pretrial Conference: Counsel shall participate in the pretrial conference to be held in Chambers on *[date of pretrial conference] at 11:00 a.m.* Counsel may attend by telephone.

II. Settlement Conference: Prior to the pretrial conference, counsel shall meet and make a good faith attempt to settle the issues of this action. Counsel shall produce a certification of their settlement efforts, including an assurance that they have conferred with their clients, have exchanged offers, have identified obstacles to settlement, and have considered options for overcoming them.

III. Exchange of Documents and Lists of Witnesses: Counsel shall exchange copies of all documents proposed to be used in evidence and their lists of witnesses by *[at least 4 weeks before pretrial conference]*. Counsel shall be prepared at the pretrial conference to discuss and have the Court rule on objections.

IV. Pretrial Order: By 12:00 noon on the day before the pretrial conference, Plaintiff's counsel shall have prepared and filed with the Court a proposed pretrial order using the form attached. All attorneys are directed to cooperate in the preparation and completion of the pretrial order.

- A. By **[at least 3 weeks before pretrial conference]**, Plaintiff's counsel shall prepare and serve upon Defendant's counsel a proposed pretrial order with attached schedules. Schedule A (names of parties and attorneys), Schedule C (uncontested facts), and Schedule F (triable issues) should be prepared only after consultation with opposing counsel.
- B. Defendant's counsel shall, upon receipt of Plaintiff's proposed order and schedules, prepare any additional schedules and deliver them in final form to Plaintiff's counsel by **[at least 2 weeks before pretrial conference]** for inclusion in the final pretrial order to be presented to the Court before the day of the pretrial conference. If counsel cannot agree on the content of Schedules A, C and F, separate statements thereof may be included by each counsel. Defendant's failure to timely provide Plaintiff with Defendant's schedules may be deemed a waiver of Defendant's right to do so.
- C. When separate schedules are submitted by the parties, Plaintiff's schedules shall be designated with the suffix number 1, e.g., C-1, D-1, E-1, etc. Defendant's schedules shall be designated with the suffix number 2, e.g., C-2, D-2, etc. If additional parties attach schedules, separate identifying suffix numbers, e.g., 3, 4, etc., shall be used for each.

V. Pretrial Summary Memoranda: By **[at least 1 week before pretrial conference]**, each counsel shall provide the Court with a concise summary memorandum of law containing:

- (1) All contested and uncontested facts (Schedule C).
- (2) The supporting evidence which the party intends to introduce at trial. Evidence not included in the statement will not be permitted at trial.
- (3) A brief discussion addressing all the legal issues in dispute.  
(All legal issues are to be addressed prior to the commencement of the trial.)

**Filing will be deemed completed when received, without the exception provided under USCIT R. 5(e).**

VI. Exhibits: Immediately following the pretrial conference, counsel shall meet with the courtroom deputy clerk to pre-mark their exhibits, using the numbering assigned to them in the exhibit schedules of the pretrial order.

VII. Trial: Trial will be set to begin on **[at least 2 weeks after PTC]**.



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Judith M. Barzilay, Judge

Dated: \_\_\_\_\_  
New York, New York